

## Rent setting by registered housing agencies – a detailed guide for all stakeholders

Non-profit community housing organisations which are registered under the Housing Act 1983 ('the Act') – known as registered agencies – provide affordable rental housing to Victorians on low incomes.

This information sheet provides a summary of how registered agencies set and review rents for properties under their management.

Rent-setting can be a complex process particularly for agencies with a large portfolio of rental housing. Within the registered sector, agencies have flexibility to adopt different approaches for particular programs or clients.

This document is intended to be a detailed guide for tenants, prospective tenants and other stakeholders of registered agencies and provide information of a general nature. A shorter summary guide has also been published and may be read in conjunction with this document.

For further information on the specific rent setting approach which applies to housing in which they live, tenants should contact their registered agency.

### Background

An affordable rental is a key benefit of living in housing owned or managed by registered agencies.

Successful rent-setting approaches by registered agencies seek to balance affordability for tenants and financial viability for the agency in a fair and transparent way. The rent paid by tenants enables registered agencies to largely pay for the costs of owning, maintaining and managing the agency's rental housing.

Affordability is generally characterised by a tenant paying no more than 30% of their income as rent.

Specific income and asset eligibility criteria govern who is able to be housed by registered housing agencies. Different household types (for example singles and families) have different eligibility criteria. Eligibility is determined as part of the application process. For more information about eligibility for housing with registered agencies, visit the [DHHS Housing website](#).

### The standards that apply to rent-setting by registered agencies

In Victoria, the Registrar of Housing Agencies ('the Registrar') and Department of Health and Human Services (DHHS) perform separate, but complimentary roles as the regulator and funder of the registered sector respectively. For much of the housing managed by registered agencies in Victoria, the Director of Housing (DoH) within DHHS is either the owner or has an interest on the property title.

Both the Registrar and DoH have specific functions relating to rent setting by registered agencies.

## Regulation – Registrar

Regulation does not mandate a particular rent-setting model. Rather, the **Performance Standards** applying to registered agencies require them to:

- make information about their policies and procedures available in a variety of formats;
- have policies and strategies to deliver housing services at affordable rents to low income tenants; and
- have policies and strategies to deal with tenants in financial difficulties and with arrears of rent.

The focus is on transparency. Policies and processes must detail the method of assessing affordability, the treatment of Commonwealth Rent Assistance (CRA) in the assessment and the treatment of additional service charges if applicable.

The Registrar also monitors the extent to which rent set by registered agencies is below 75% of market rent and between 25% and 30% of tenant income in accordance with the current affordable rent parameters set by DHHS (see next section).

## Funding and Policy – DoH and DHHS

The Victorian government manages a portfolio of affordable rental housing ('public housing') through DHHS and the DoH. It has also provided assistance to registered agencies to build and supply low cost rental housing in the form of capital grants, transfers of state-owned properties, leases, management contracts and/or service agreements.

For public housing a tenant pays the lower of either the property market rent or a rebated rent based on 25% of household income. Market rent (sometimes called the property rent) is what the rent for the property would be in the private rental market. Most public housing tenants pay a rebated rent. The amount of rent charged is reviewed twice a year in February and August.

Agreements between DHHS or the Director of Housing (DoH) and registered agencies (as well as related policies for these programs) include rules about rent-setting for housing managed by registered agencies. These rules and policies vary depending on the program. Key programs include:

Program	Description	Rent-setting parameters
Transitional housing	Supported short-term accommodation with access to support services. It acts as a stepping stone to more permanent housing in public, community or the private market.	Public housing rent. Rent is 25% of assessable income <sup>i</sup> and 15% of family tax benefits capped at the property rent – as determined by DHHS.
DoH owned and leased to registered agencies	Housing (including rooming houses) owned by DoH, head leased to registered agencies to provide long-term community housing.	Rent is similar to public housing rents but are "grossed up" to include a tenant's entitlement to Commonwealth Rental Assistance (CRA). <sup>ii</sup> Rent is capped at the property rent set by DoH and notified to the registered agency.

Registered agency owned	Housing owned by registered agencies and either purchased with financial assistance from DoH or transferred by DoH to the registered agency. It is used for long-term housing programs.	DHHS Guidelines for Registered Agencies (see further information below)
-------------------------	---	---

The DHHS Guidelines for Registered Agencies<sup>iii</sup> require that for low income households, the Net Rent (i.e. the total rent charged with CRA then subtracted) at the commencement of a tenancy be no more than 30% of gross household income.

A household is considered low income if its total household income is below certain thresholds, which (as at 20 March 2016) are:

Cut off point for 30% Net Rent Requirement - Tenants earning under these amounts should not pay net rent (i.e. excluding CRA) which is more than 30% of household income	Household Size (Includes children of any age)		
	1 Person	2 Persons	3+ Persons
	\$654 gross per week (\$34,088 p.a.)	\$1,003 gross per week (\$52,305 p.a.)	\$1,388 gross per week (\$72,377 p.a.)

### Other requirements applicable to registered agencies

In addition to the Registrar and DoH/DHHS requirements already covered, a registered agency may have to comply with other requirements in setting and reviewing rents such as those outlined below:

National Rental Affordability Scheme (NRAS) provisions	For properties subject to an NRAS incentive, rent cannot be more than 80% of the market rent, and cannot be increased more than once annually. <sup>iv</sup>
Residential Tenancies Act 1997 (Vic) (RTA) provisions	<p>A tenant can request a rent assessment from Consumer Affairs Victoria (CAV) if the landlord has given notice of an increase that the tenant thinks is excessive (after considering market rent), or has not appropriately allowed for reduced or withdrawn services, facilities or other items that the tenant was getting previously as part of his or her rental agreement.</p> <p>The tenant must request CAV in writing to carry out a rent assessment within 30 days of having received a notice advising of a rent increase.</p> <p>The tenant has 30 days from receiving CAV's rent assessment report to apply to the Victorian Civil and Administrative Tribunal (VCAT) for a hearing.</p>

	<p>VCAT may then set a maximum rent, having regard to a range of factors, including the rent payable for comparable rented premises in the same locality.<sup>v</sup></p> <p>In general, this process will only be of assistance to a tenant where the tenant believes that the registered agency has set a rent which is in excess of the market rent for the property.</p> <p>For more information, see the <a href="#">CAV website</a>.</p>
<p>Eligibility for GST concessions available to charities<sup>vi</sup></p>	<p>Rent charged to tenants by registered agencies to maintain charitable tax status must be no more than 75% of either:</p> <ul style="list-style-type: none"> <li>• actual market rent for the property; or</li> <li>• benchmark market rent set by the Australian Taxation Office (ATO), which as at 1 July 2015 was: <ul style="list-style-type: none"> <li>○ 4+ br: \$800.00pw</li> <li>○ 3 br: \$606.25pw</li> <li>○ 2 br: \$462.50pw</li> <li>○ 1 br: \$325.00pw<sup>vii</sup></li> </ul> </li> </ul>

## Rent setting approaches adopted by registered agencies

Within the parameters set out above, there is scope for registered agencies to adopt different approaches to determining and managing rents. This gives registered agencies flexibility to adjust their practices for particular target groups or local communities. A registered agency may adopt different rent-setting approaches for different properties and programs within its portfolio.

These approaches include:

### Income-based

Rents based upon a household income generally include:

- a proportion (normally 25 to 30%) of ordinary household income; and
- 100% of CRA (if the tenant is entitled to CRA).

Some, but not all, agencies have in place policies (or are compelled in leases / agreements with DoH around specific properties to meet requirements) which:

- exclude certain forms of household income from assessment (e.g. certain forms of government payments like the Pensioner Supplement);
- assess some forms of income at a concessional rate (e.g. child support payments or the Family Tax benefits);
- deal with tenants with unusual or complex household income, such as recipients of certain types of benefits or those with income from lump sum payments; or
- establish an imputed income for tenants with nil or very low incomes (such as those not in receipt of Commonwealth income support payments).

Where a tenant's household income changes (either up or down) the tenant is required to immediately notify the agency of the change. This may result in an adjustment of the rent payable by the tenant. Agencies may decide not to back-date reductions to a tenant's rent where there has been undue delay in notifying the agency. Rent changes are able to be implemented from notification, subject to compliance with the RTA's requirements.

### Market-based

Rent can also be based on a discount to the market rent for the property such as 75% or 65% of market rent. NRAS has a higher level and requires rent to be no more than 80% of market rent.

Under these arrangements rent does not automatically adjust if household circumstances change. However the registered agency must have policies and strategies for tenants in financial hardship as a result – for example allowing a lower rent for set periods, a transfer to another property or changing a tenancy to an income-based rent.

Agencies may set market rents based independent valuations or the agency's own assessment of market rents based on other data such as real estate listings or the annual rental report carried out by DHHS. For properties leased to an agency by the DoH under a General or Housing Provider Framework Lease, market rents are those provided by the DoH as prescribed in the leases.

NRAS also has particular rules about assessment of market rents, which include a requirement for independent valuations of market rent during certain points in the period that NRAS applies to the property. For more information about NRAS, see the Commonwealth Government Department of [Social Services website](#).

### Property or maximum rent

Some agencies may adopt their own "property rent" or "maximum rent" for specific types of housing which sets either (or both) a rental ceiling (that rent cannot exceed) or floor rent (by which rent cannot be lower). These are generally based on a formula or methodology for establishing a benchmark rent. Such benchmarks may take into account various attributes such as rents in the locality, the property's attributes (e.g. number of bedrooms) or the cost of managing and maintaining a property.

### Combination

Rent-setting approaches may combine methods described above, with income-based rents capped at market rent or a percentage of market rent (or where applicable capped at the property rent or maximum rent). Usually a registered agency will apply the lower of the two calculations in the rent charged to the tenant.

### Other matters relating to rent

#### Regular reviews of rent

Most registered agencies review rent at least annually (but no more than once every six months) based upon movements in market rent and changes to household income. Tenants may be asked to provide details of household income if an income-based methodology applies. If a tenant does not provide information within a reasonable time period requested, an agency's policy may enable it to increase the rent to market rent (or where applicable, a property rent or maximum rent).

Under the RTA, a landlord cannot review rent during a fixed term tenancy (unless the tenancy agreement allows it) and otherwise more than once every six months.<sup>viii</sup> Rent reviews occur by the landlord giving a notice which complies with the RTA. In general, registered agencies adopt one of two approaches:

- one notice which complies with the RTA that specifies the registered agency's assessment of the amount payable by the tenant in accordance with its rent-setting policy; or
- two separate communications as follows:
  - a notice which satisfies the requirements of the RTA which specifies an amount which the registered agency believes is the market rent (or where applicable, a property rent or maximum rent) for the property; and
  - a separate communication which specifies the rental subsidy to which the tenant is entitled (calculated by the registered agency in accordance with its rent-setting policy) and accordingly, the amount actually payable by the tenant.

### Service charges

Some agencies may, in addition to rents, ask tenants to pay a service charge for:

- electricity, gas, water, or central heating services; and
- laundry and other shared facilities including cooking areas, recreational areas, lifts, garbage disposal, common areas and gardens,

made available to tenants where the agency cannot accurately measure individual tenant's use of those services. The cost for the service is then apportioned across all tenants in the property.

A service charge may be increased or decreased in line with changes in the cost of providing the services.<sup>ix</sup>

The [Performance Standards](#) for registered agencies require that agencies have policies and strategies to ensure that service and other charges do not exceed fair market or actual costs.

### Commonwealth Rental Assistance

Commonwealth Rent Assistance (CRA) is a rent subsidy available to tenants of registered agencies who receive a Centrelink payment (some special rules apply) and are paying more than a specified minimum amount of rent. It is not available to public housing tenants.

The amount of CRA varies according to the household type (family situation) of the tenant. It also varies according to the level of rent being paid by the tenant over and above the specified minimum level. A maximum CRA figure for a household type is payable when rent exceeds another specified figure.

Registered agencies in determining the rent for a tenant will generally take into account the maximum amount of CRA to which the tenant is entitled. This is then included in the rent charged to the tenant. It is generally the tenant's responsibility to ensure they have applied for CRA and are actually receiving the correct amount due to them.

Tenants may not always be in receipt of their full entitlement unless they have notified Centrelink of their current rent figure (including any recent increase in rent). Some registered agencies may offer a service by the Centrepay system where tenants give consent for their registered agency to inform Centrelink about changes to their rent on the tenant's behalf.

## Bonds

Some registered agencies may require tenants to pay a bond. Under the RTA, a landlord cannot require a bond of more than one month's rent. Tenants lodge bonds through the Residential Tenancies Bond Authority.

Some tenants may be eligible for a bond loan from DHHS. See the [DHHS Housing website](#) for more information.

## Disputes about rent

Tenants with concerns about their rental assessment (or service charge) should in the first instance contact their relevant registered agency and ask for an explanation, including a breakdown of the rental figure and supporting calculations, showing how the rent or service charge has been calculated.

All registered agencies are required under the Act to implement a complaints management process. This can be used by tenants who believe that a registered agency has not complied with its rent or service charges policy or has not adequately explained how a new rent figure has been calculated when requested to do so.

Following completion of this process, the complaint may be referred to the Registrar, who has the power to appoint external agents to review and investigate complaints falling within his jurisdiction.

For more information about this process, see the Housing Registrar information sheet: *"Complaints by tenants or prospective tenants to the Housing Registrar."*

VCAT can also play a role but generally only has jurisdiction to hear:

- matters relating to the level of rent where a tenant is paying market rent and the tenant believes the agency's assessment of market rent is excessive; and
- matters relating to service charges exceeding actual costs incurred.

## Summary of rent-setting obligations

In broad terms, there are two ceilings that apply to rent – one based on household income and the other on market rent. An agency has flexibility to offer rents *below* these ceilings if it believes it is necessary to ensure rents remain affordable for its tenants. DoH / DHHS lease or funding requirements for some properties can also impose additional requirements.

The Registrar has a role to monitor the extent to which agencies charge rent above these ceilings.

<b>Rent ceiling</b>	<b>Circumstances in which rent ceiling may not apply:</b>	<b>Agency's rent policy may permit rents:</b>
30% of total gross household income	Where the tenant's total gross household income exceeds the midpoint established by the DHHS guidelines (as at 1 July 2015): <ul style="list-style-type: none"> <li>o 1 Person: \$644 pw (\$33,560 p.a.)</li> <li>o 2 Persons: \$989 pw (\$51,575 p.a.)</li> <li>o 3+ Persons: \$1,367 pw (\$71,261 p.a.)</li> </ul>	With a net rent (i.e. excluding any CRA) above 30% of gross household income. The rent must also comply with the market rent ceiling set out below.
75% of market rent for the property	Where the actual market rent for the property is <b>lower</b> than the ATO benchmark, which as at 1 July 2015 is: <ul style="list-style-type: none"> <li>• 4+ br: \$800.00 pw</li> <li>• 3 br: \$606.25 pw</li> <li>• 2 br: \$462.50 pw</li> <li>• 1 br: \$325.00pw</li> </ul>	Above 75% of the market rent for the property, so long as it is no greater than: <ul style="list-style-type: none"> <li>o 75% of the ATO benchmark; <b>and</b></li> <li>o 100% of the market rent for the property.</li> </ul> The rent must also comply with any income-based ceiling set out above.

### Worked examples

The following case studies are examples that demonstrate how different rent-setting approaches apply. These are based on amounts / rates which apply as at 1 July 2015.

#### **Example 1 – Income based rent**

Martha is an aged pensioner living in community housing managed by Sunnyside Homes, a registered agency. She lives in a one bedroom unit in inner Melbourne which has a fortnightly market rent of \$800 (\$400pw).

Sunnyside Homes' rent policy for the property is to charge the tenant rent of 30% of assessable income (excluding certain Centrelink allowances) plus 100% of CRA. It also includes a service charge of \$10 per week for this property to pay for utility costs, since the unit's in Martha's complex are not separately metered for utility consumption.

Her fortnightly rent is assessed as follows:

<b>Income source</b>	<b>Amount (pf)</b>	<b>Assessment rate</b>	<b>Amount of rent (pf)</b>
Aged pension (basic rate)	\$782.20	30%	\$234.66
Pension Supplement and Energy Supplement	\$78.00	0%	-
Rent Assistance	\$128.40	100%	\$128.40
<b>Total</b>	<b>\$988.60</b>		<b>\$363.06</b>
Service charge of \$10 per week			\$20.00
<b>Total Rent plus Service Charge</b>			<b>\$383.06</b>



## Analysis:

- Martha's total gross household income of \$494.30pw is less than the cut off point under the DHHS guidelines (\$644pw) for the 30% net rent requirement;
- However, the net rent (i.e. excluding CRA) is 27% of her income – this is less than 30% of her income and is therefore consistent with the DHHS guidelines; and
- Martha's total rent payable of \$363.06 per fortnight (\$181.53pw) inclusive of CRA is well below the 75% of market rent level of \$600 per fortnight (\$300pw) against which the Housing Registrar is also monitoring.

### **Example 2 – Rent based on a discounted percentage of market rent**

Ari and Lee live in a two bedroom apartment owned by CBD Housing, a registered agency. Its market rent is \$900 per fortnight (\$450 per week). CBD Housing's rent policy for the property is to set rent at 75% of the market rent for the property.

Ari and Lee both work part-time while completing studies at university. Between the two, they earn gross wages of \$2,110 per fortnight, or about \$55,000 per annum. They are eligible for affordable housing offered by registered housing agencies but ineligible for CRA.

Ari and Lee's rent is set at \$675 per fortnight (\$337.50 per week) which represents 75% of the market rent ( $\$900 \times 0.75 = \$675$ ). The market rent percentage is consistent with the level being monitored by the Housing Registrar.

As \$675 rent charged per fortnight within an income of \$2,110 per fortnight equates to 32% of income. However, as their total household income is above \$51,575 p.a., the rent level fits within affordability parameters set by the DoH and being monitored by the Housing Registrar.

### **Example 3 – Mixed rent model - with a specified discounted percentage of market rent being the primary determinant of rent charged**

Carol and William live in a two bedroom house owned by Afford Housing, a registered agency. Its market rent is \$480 per fortnight (\$240pw).

Afford Housing's rent policy is for tenants to pay whichever is the lower calculation from 25% of all income plus CRA or 75% of market rent. 75% of market rent for the property is calculated at \$360 per fortnight ( $\$480 \times 0.75$ ).

Carol and William both receive Disability Support pensions. The income based rent calculation is shown in the table below.

<b>Income source</b>	<b>Amount (pf)</b>	<b>Assessment rate</b>	<b>Amount of rent (pf)</b>
Disability Support pensions (for couple)	\$1179.20	25%	\$294.80
Pension supplement (for couple)	\$96.40	25%	\$24.10
Commonwealth Rent Assistance (for couple with no children)	\$120.80	100%	\$120.80
<b>Total</b>	<b>\$1,396.40</b>		<b>\$439.70</b>

Carol and William's rent payable to Afford Housing is then determined as the lower of the two figures. In this case it is the 75% of market rent figure of \$360 per fortnight.

With CRA accounting for \$120.80 of this rent figure, the amount then coming out of the other income sources is \$239.20 or 19%, well below the 25 – 30% affordability parameters set by DHHS and monitored by the Housing Registrar.

**Example 4 – Income based rent with total rent not exceeding market rent**

Jenny lives with her two young children Charlotte and Oliver in a three bedroom community housing property owned by Countrywide Services, a registered agency. The property’s market rent is \$275 per week.

Countrywide Services’ rent policy for the property is to charge the tenant rent of 25% of all household income plus 100% of CRA, up to a maximum of market rent.

Jenny’s rent is assessed as follows:

Income source	Amount (pf)	Assessment rate	Amount of rent (pf)
Parenting Payment (including supplements)	\$725.40	25%	\$181.35
Child Support payments	\$200.00	25%	\$50.00
Family Tax payments	\$504.00	25%	\$126.00
Rent Assistance	\$150.08	100%	\$150.08
Total	\$1,579.48		\$507.43

As the market rent is \$550 per fortnight (\$275pw), Jenny pays \$507.43 per fortnight (\$253.72pw).

**Analysis**

- Jenny’s total gross household income of \$789.74 pw is less than the cut off point under the DHHS guidelines (\$1,367pw) for the 30% net rent requirement;
- The net rent (i.e. excluding CRA) is 25% of her income – this is less than 30% of her income and is therefore consistent with the DHHS guidelines; and
- Jenny’ rent is 92% of the market rent for the property. It is:
  - less than 75% of the ATO benchmark rent for a three bedroom property (\$454.69 pw); and
  - less than the actual market rent for the property (\$275 pw).

<sup>i</sup> For more information about assessable income, see <http://www.housing.vic.gov.au/about-income-and-asset-limits>

<sup>ii</sup> Department of Health and Human Services, Guidelines for Managing DHS Properties under a General Lease (June 2013)

<sup>iii</sup> Department of Health and Human Services, Guidelines for Registered Agencies, March 2015 found at <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/guidelines-for-registered-housing-agencies>

<sup>iv</sup> For more information about NRAS, see <https://www.dss.gov.au/our-responsibilities/housing-support/programmes-services/national-rental-affordability-scheme>

<sup>v</sup> For more information, see <http://www.consumer.vic.gov.au/housing-and-accommodation/renting/during-a-lease-or-residency/rent-and-other-payments/rent-increases>

<sup>vi</sup> Australian Taxation Office, Non-commercial activities of charities, cost of supply and market value tests.

<sup>vii</sup> Australian Taxation Office, GST and non-commercial rules - benchmark market values, Table 5: Long Term Accommodation (last updated 21 May 2014)

<sup>viii</sup> Residential Tenancies Act 1997 (Vic) section 44.

<sup>ix</sup> Residential Tenancies Act 1997 (Vic) section 57.